

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Gunter Gomoll et al.
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APPEAL BRIEF

Pursuant to 37 CFR §41.37, Appellants hereby file an appeal brief in the above-identified application. This Appeal Brief is accompanied by the requisite fee set forth in 37 CFR §41.20(b)(2).

Table of Contents

(1) REAL PARTY IN INTEREST	3
(2) RELATED APPEALS AND INTERFERENCES	3
(3) STATUS OF CLAIMS.....	3
(4) STATUS OF AMENDMENTS.....	3
(5) SUMMARY OF CLAIMED SUBJECT MATTER.....	3
(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....	5
(7) ARGUMENT	6
(8) CONCLUSION	19
CLAIMS APPENDIX	20
EVIDENCE APPENDIX	26
RELATED PROCEEDINGS APPENDIX	27

(1) REAL PARTY IN INTEREST

The real party in interest is BSH Bosch und Siemens Hausgeräte GmbH.

(2) RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) STATUS OF CLAIMS

Claims 1-13, 17-20, 29 and 30 are cancelled. Claims 14-16, 21-28 and 31-45 are pending in this application. The final rejections of claims 14-16, 21-28 and 31-45 are being appealed. Claims 14, 27 and 37 are independent.

(4) STATUS OF AMENDMENTS

No Amendments are outstanding. Appellants filed a Notice of Appeal on January 14, 2011.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

A first exemplary embodiment, as defined by, for example, independent claim 14, is directed to a refrigerating unit for installing in a furniture niche (page 1, lines 22-23; reference numbers 1, 2, 3, Figures 2-5), comprising a body (page 4, line 14; reference number 6, Figures 2-5) and a door (page 4, line 20; reference number 10, Figures 2-5) that enclose a thermally insulated inside compartment (page 4, line 24; reference number 14, Figures 2-5), the door being pivotally mounted to the body for pivotal movement about an axis between an open and

a closed position (Figures 2-5), the door projecting beyond a front edge (page 4, line 17; reference number 3, Figures 2-5) of the furniture niche when the refrigerating unit is installed in the furniture niche (page 2, line 8; Figures 2-5).

A second exemplary embodiment, as defined by, for example, independent claim 27, is directed to a refrigerating unit for installing in a furniture niche (page 1, lines 22-23; reference numbers 1, 2, 3, Figures 2-5), the refrigerating unit comprising: a body (page 4, line 14; reference number 6, Figures 2-5) having a front edge (page 4, line 16; reference number 21, Figures 2-5) and a body inside area, the body inside area being defined on one side by the front edge of the body; and a door (page 4, line 20; reference number 10, Figures 2-5) having a protruding edge that protrudes toward the front edge of the body, the door being pivotally mounted to the body for pivotal movement about an axis between an open and a closed position, the door and the body enclosing a thermally insulated inside compartment (page 4, line 24; reference number 14, Figures 2-5) when the door is in the closed position and the protruding edge of the door contacts the front edge of the body, and the door including a receiving area, wherein the receiving area is outside of the body inside area when the door is in the closed position, and the door is adapted for projecting beyond a front edge (page 4, line 17; reference number 3, Figures 2-5) of the furniture niche when the door is in the closed position and the refrigerating unit is installed in the furniture niche (page 2, line 8; Figures 2-5).

A third exemplary embodiment, as defined by, for example, independent claim 37, is directed to a refrigerating unit and furniture niche combination, comprising: a furniture niche (page 1, lines 22-23; reference numbers 1, 2, 3, Figures 2-5); and a refrigerating unit installed in the furniture niche, the refrigerating unit having a body (page 4, line 14; reference number 6, Figures 2-5) having a front edge (page 4, line 16; reference number 21, Figures 2-5) and a body inside area, the body inside area being defined on one side by the front edge of the body; and a door (page 4, line 20; reference number 10, Figures 2-5) having a protruding edge that protrudes toward the front edge of the body, the door being pivotally mounted to the body for

pivotal movement about an axis between an open position and a closed position (Figures 2-5), the door and the body enclosing a thermally insulated inside compartment (page 4, line 24; reference number 14, Figures 2-5) when the door is in the closed position and the protruding edge of the door contacts the front edge of the body, and the door including a receiving area, wherein the receiving area is outside of the body inside area when the door is in the closed position, and the door projects beyond a front edge of the furniture niche when the door is in the closed position and the refrigerating unit is installed in the furniture niche (page 2, line 8; Figures 2-5).

(6) GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- A) General Note – Intended Use
- B) Whether claims 24 and 25 are unpatentable under 35 U.S.C. § 112, first paragraph
- C) Whether claim 14 is unpatentable under 35 U.S.C. § 102(b) over Figure 1 of the application
- D) Whether claim 14 is unpatentable under 35 U.S.C. § 102(b) over “Finding the Right Refrigerator” by Roe Osborn (“Osborn”)
- E) Whether claim 14 is unpatentable under 35 U.S.C. § 102(b) over “Hide that Ugly Refrigerator” by Rex Alexander (“Alexander”)
- F) Whether claim 14 is unpatentable under 35 U.S.C. § 102(b) over U.S. Patent No. 6,079,216 to de Marsillac Plunkett (“de Marsillac Plunkett”)
- G) Whether claim 14 is unpatentable under 35 U.S.C. § 102(b) over U.S. Patent No. 4,790,146 to Mun (“Mun”)
- H) Whether claim 14 is unpatentable under 35 U.S.C. § 102(b) over U.S.

Patent No. 5,358,326 to Cherry (“Cherry”)

- I) Whether claims 14, 23, 26-28 and 31-36 are unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 2,728,203 to King (“King”)
- J) Whether claims 15, 16, 21, 22 and 37-45 are unpatentable under 35 U.S.C. §103(a) over King in view of Alexander
- K) Whether claims 14-16, 21-28 and 31-45 are unpatentable under 35 U.S.C. §103(a) over “Faux Fridge Front” by Mike Guertin (“Guertin”) in view of King

(7) ARGUMENT

A) General Note – Intended Use

The Office Action appears to be taking the position that the limitations in the claims regarding the furniture niche are merely intended use and are therefore not given patentable weight. Appellants disagree with this position. Claim 14 includes the feature of the door projecting beyond a front edge of the furniture niche. This is a positive recitation of a feature of the door of the refrigerating unit. Claim 27 includes the feature of the door being adapted for projecting beyond a front edge of the furniture niche. This is a positive recitation of a feature of the door of the refrigerating unit. Claim 37 includes the feature of the door projecting beyond a front edge of the furniture niche when the refrigerator is installed in the furniture niche. This is a positive recitation of a feature of the door of the refrigerating unit and its relative position to the furniture niche, which is also positively claimed.

Appellants submit that the relationship between the door and the front edge of the furniture niche is a positively claimed feature and is not merely and intended use.

- B) Claims 24 and 25 are patentable under 35 U.S.C. §112, first paragraph

The Office Action rejected claims 24 and 25 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Appellants respectfully traverse this rejection.

Appellants submit that one skilled in the art of refrigerators would have known from the totality of the disclosure that the decorative panel can be removable from the door.

In view of the foregoing, Appellants respectfully submit that claims 24 and 25 comply with the written description requirement. As a result, Appellants respectfully request withdrawal of the rejection.

- C) Claim 14 is patentable under 35 U.S.C. §102(b) over Figure 1 of the application

The Office Action rejected claim 14 under 35 U.S.C. §102(b) over Figure 1 as admitted prior art. Appellants respectfully traverse this rejection.

Claim 14 includes the feature of the door being mounted to the body and projecting beyond a front edge of the furniture niche. As defined by the specification in paragraph 007, “projecting beyond a front edge of the furniture niche” means that in the closed position the door projects far enough that the decorative panel covering the door projects further than the doors of cupboard elements adjacent to the furniture niche of the refrigerating unit.

In contrast, Figure 1 does not show cupboard elements adjacent to the furniture niche of the refrigerating unit.

In view of the foregoing, Appellants respectfully submit that Figure 1 does not disclose each and every feature of claim 14 and, therefore, rejection under 35 USC §102(b) is inappropriate. As a result, Appellants respectfully request withdrawal of the rejection.

- D) Claim 14 is patentable under 35 U.S.C. §102(b) over “Finding the Right Refrigerator” by Roe Osborn (“Osborn”)

The Office Action rejected claim 14 under 35 U.S.C. §102(b) over Osborn.

Appellants respectfully traverse this rejection.

Claim 14 includes the feature of the door being mounted to the body and projecting beyond a front edge of the furniture niche. As defined by the specification in paragraph 007, “projecting beyond a front edge of the furniture niche” means that in the closed position the door projects far enough that the decorative panel covering the door projects further than the doors of cupboard elements adjacent to the furniture niche of the refrigerating unit.

In contrast, Osborn does not show cupboard elements adjacent to the furniture niche of the refrigerating unit.

In view of the foregoing, Appellants respectfully submit that Osborn does not disclose each and every feature of claim 14 and, therefore, rejection under 35 USC §102(b) is inappropriate. As a result, Appellants respectfully request withdrawal of the rejection.

- E) Claim 14 is patentable under 35 U.S.C. §102(b) over “Hide that Ugly Refrigerator” by Rex Alexander (“Alexander”)

The Office Action rejected claim 14 under 35 U.S.C. §102(b) as being unpatentable over Alexander. Appellants respectfully traverse the rejection.

Claim 14 includes the feature of the door being mounted to the body and projecting beyond a front edge of the furniture niche. As defined by the specification in paragraph 007, “projecting beyond a front edge of the furniture niche” means that in the closed position the door projects far enough that the decorative panel covering the door projects further than the doors of cupboard elements adjacent to the furniture niche of the refrigerating unit.

In contrast, Alexander does not show cupboard elements adjacent to the furniture niche of the refrigerating unit.

In view of the foregoing, Appellants respectfully submit that Alexander does not disclose each and every feature of claim 14 and, therefore, rejection under 35 USC §102(b) is inappropriate. As a result, Appellants respectfully request withdrawal of the rejection.

- F) Claim 14 is patentable under 35 U.S.C. §102(b) over U.S. Patent No. 6,079,216 to de Marsillac Plunkett (“de Marsillac Plunkett”)

The Office Action rejected claim 14 under 35 U.S.C. §102(b) as being unpatentable over de Marsillac Plunkett. Appellants respectfully traverse the rejection.

Claim 14 includes the feature of the door being mounted to the body and projecting beyond a front edge of the furniture niche. As defined by the specification in paragraph 007, “projecting beyond a front edge of the furniture niche” means that in the closed position the door projects far enough that the decorative panel covering the door projects further than the doors of cupboard elements adjacent to the furniture niche of the refrigerating unit.

In contrast, de Marsillac Plunkett does not show cupboard elements adjacent to the furniture niche of the refrigerating unit.

In view of the foregoing, Appellants respectfully submit that de Marsillac Plunkett does not disclose each and every feature of claim 14 and, therefore, rejection under 35 USC §102(b) is inappropriate. As a result, Appellants respectfully request withdrawal of the rejection.

- G) Claim 14 is patentable under 35 U.S.C. §102(b) over U.S. Patent No. 4,790,146 to Mun (“Mun”)

The Office Action rejected claim 14 under 35 U.S.C. §102(b) as being unpatentable over Mun. Appellants respectfully traverse the rejection.

Claim 14 includes the feature of the door being mounted to the body and projecting beyond a front edge of the furniture niche. As defined by the specification in paragraph 007, “projecting beyond a front edge of the furniture niche” means that in the closed position the door projects far enough that the decorative panel covering the door projects further than the doors of cupboard elements adjacent to the furniture niche of the refrigerating unit.

In contrast, Mun does not show cupboard elements adjacent to the furniture niche of the refrigerating unit.

In view of the foregoing, Appellants respectfully submit that Mun does not disclose each and every feature of claim 14 and, therefore, rejection under 35 USC §102(b) is inappropriate. As a result, Appellants respectfully request withdrawal of the rejection.

- H) Claim 14 is patentable under 35 U.S.C. §102(b) over U.S. Patent No. 5,358,326 to Cherry (“Cherry”)

The Office Action rejected claim 14 under 35 U.S.C. §102(b) as being unpatentable over Cherry. Appellants respectfully traverse the rejection.

Claim 14 includes the features of the door being mounted to the body and projecting beyond a front edge of the furniture niche. As defined by the specification in paragraph 007, “projecting beyond a front edge of the furniture niche” means that in the closed position the door projects far enough that the decorative panel covering the door projects further than the doors of cupboard elements adjacent to the furniture niche of the refrigerating unit.

In contrast, Cherry does not show a furniture niche. Further, Cherry does not show a door that projects beyond a front edge of the furniture niche. Cherry specifically states that its invention fills a need for flexible mounting arrangements so that the front of the refrigerator is essentially even with the front of the adjacent kitchen counters and cabinets.

In view of the foregoing, Appellants respectfully submit that Cherry does not disclose each and every feature of claim 14 and, therefore, rejection under 35 USC §102(b) is inappropriate. As a result, Appellants respectfully request withdrawal of the rejection.

- I) Claims 14, 23, 26-28 and 31-36 are patentable under 35 U.S.C. §102(b) over U.S. Patent No. 2,728,203 to King (“King”)

The Office Action rejected claims 14, 23, 26-28 and 31-36 under 35 U.S.C. §102(b) as being unpatentable over King. Appellants respectfully traverse the rejection.

i) Claim 14

Claim 14 includes the features of the door being mounted to the body and projecting beyond a front edge of the furniture niche. As defined by the specification in paragraph 007, “projecting beyond a front edge of the furniture niche” means that in the closed position the door projects far enough that the decorative panel covering the door projects further than the doors of cupboard elements adjacent to the furniture niche of the refrigerating unit.

In contrast, King does not show a furniture niche. Further, King does not show a door that projects beyond a front edge of the furniture niche. In fact, the Office Action itself admits that King does disclose “the refrigerator installed in a niche and the relationship of the refrigerator to the niche” (paragraph 10 on page 5 of the Office Action). As a result, King does not disclose each and every feature of claim 14 and, therefore, rejection under 35 U.S.C. §102(b) is inappropriate. Further, Applicants submit that nothing in King suggests that the refrigerator of King is for installing in a furniture niche or any positional relationship between the door and a furniture niche.

ii) Claims 23, 26, 27, 31, 32 and 34-36

Claim 27 includes the features of the refrigerating unit being for installing in a furniture niche and the door being adapted for projecting beyond a front edge of the furniture niche when the door is in the closed position and the refrigerating unit is installed in the furniture niche.

In contrast, as admitted by the Office Action in paragraph 10, King does not disclose “the refrigerator installed in a niche and the relationship of the refrigerator to the niche.” As a result, King does not disclose each and every feature of claim 27 and, therefore, rejection under 35 U.S.C. §102(b) is inappropriate. Further, Applicants submit that nothing in King suggests that the refrigerator of King is for installing in a furniture niche or any positional relationship between the door and a furniture niche.

Claims 23, 26, 31, 32 and 34-36 depend from claim 27.

iii) Claim 28

Claim 28 includes the feature of the door being adapted for projecting beyond a front face of a cabinet door adjacent to the refrigerating unit in the furniture niche when the door is in the closed position. In contrast, as admitted by the Office Action in paragraph 10, King does not disclose “the refrigerator installed in a niche and the relationship of the refrigerator to the niche.” Further, King does not disclose anything regarding a cabinet door adjacent to the refrigerating unit.

iv) Claim 33

Claim 33 includes the feature of the protruding edge of the door being in between the axis and the front edge of the body. In contrast, King does not show a pivot axis of door 10. Further, King does not suggest any particular location of a pivot axis of door 10.

In view of the foregoing, Appellants respectfully submit that King does not disclose each and every feature of claims 14, 23-28 and 31-36 and, therefore, rejection under 35 USC §102(b) is inappropriate. As a result, Appellants respectfully request withdrawal of the rejection.

J) Claims 15, 16, 21, 22 and 37-45 are patentable under 35 U.S.C. §103(a) over King in view of Alexander

The Office Action rejected claims 15, 16, 21, 22 and 37-45 under 35 U.S.C. §103(a) as being unpatentable over King in view of Alexander. Appellants respectfully traverse the rejection.

A stated purpose of the receiving area in the door of claim 37 is to provide additional refrigerated space to built-in refrigerators that often have a shallower depth than traditional free standing refrigerators. The refrigerator of Alexander is a traditional free standing refrigerator. As a result, there would have been no motivation to add a door having the

claimed receiving area to the refrigerator of Alexander. The door 10 of the refrigerator of King is configured the way it is to provide a freezer compartment in door 10, with access through second door 31. The refrigerator of Alexander has a separate freezer having its own door and, as a result, would have no need for the door configuration of King.

i) Claim 15, 37, 39-41 and 43-45

Claim 37 includes the feature of the door projecting beyond a front edge of the furniture niche when the door is in the closed position and the refrigerating unit is installed in the furniture niche.

The Office Action asserts that Alexander shows the door projecting slightly in front of the edge of the niche. Applicants disagree with this assertion. Applicants submit that the photographs in Alexander show the doors flush with the front edge of the cabinet. Also, Alexander specifically states that “with $\frac{3}{4}$ in. to 1 in. spacing around the unit, my cabinet can be flush with the door” (page 73, first column). Alexander then goes on to explain that some doors open with the thickness of the door extending beyond the sides of the unit and how to leave space in the cabinet so that the door can open fully. This explanation is appropriate for the case where the cabinet is flush with the door and supports Alexander’s stated purpose of keeping the cabinet flush with the door. As a result, Applicants submit that nothing in Alexander suggests the door projecting beyond a front edge of the furniture niche when the door is in the closed position and the refrigerating unit is installed in the furniture niche.

The Office Action appears to be asserting that there is nothing in claim 37 that requires the door be closed when it projects beyond a front edge of the furniture niche. Appellants direct the Examiners attention to the last paragraph of claim 37, which states “the door projects beyond a front edge of the furniture niche when the door is in the closed position and the refrigerating unit is installed in the furniture niche.” The Office Action also states that claim 37 does not claim a cupboard element. Appellants agree that the term cupboard element is not in claim 37, but do not understand the relevance of its absence.

Claims 15, 39-41 and 43-45 depend from claim 37.

ii) Claim 16

Claim 16 includes the feature of the front edge of the body of the refrigerating unit being flush with the front edge of the furniture niche. The Office Action asserts that the body of the refrigerating unit in Alexander is capable of being flush with the edge of the niche. Applicants submit that Alexander does not suggest the front edge of the body of the refrigerator being flush with the front edge of the cabinet. Applicants further submit that Alexander teaches away from building the cabinet such that the front edge of the body of the refrigerator is flush with the front edge of the cabinet because such a construction would result in the door not being flush with the front edge of the cabinet. This would prevent achieving a stated goal of Alexander. Alexander specifically states that “with $\frac{3}{4}$ in. to 1 in. spacing around the unit, my cabinet can be flush with the door” (page 73, first column). Alexander then goes on to explain that some doors open with the thickness of the door extending beyond the sides of the unit and how to leave space in the cabinet so that the door can open fully. This explanation is appropriate for the case where the cabinet is flush with the door and supports Alexander’s stated purpose of keeping the cabinet flush with the door. As a result, Applicants submit that nothing in Alexander suggests doing anything that would result in the door not being flush with a front edge of the furniture niche when the door is in the closed position and the refrigerating unit is installed in the furniture niche.

iii) Claims 21 and 22

Claim 21 includes the feature of a decorative end portion being disposed on an outer side of the door which ends flush with the front of the furniture niche. Because the door in Alexander is flush with the front edge of the cabinet, it would not be possible to have an end portion of the door that ends flush with the front of the cabinet. Since the door in Alexander is flush with the front edge of the cabinet, any end portion of the door would be inside the cabinet.

Claim 22 depends from claim 21.

iv) Claim 38

Claim 38 includes the feature of the inside compartment projecting over the front edge of the furniture niche when the door is in the closed position. This feature could not exist in any combination including Alexander because the door is flush with the front edge of the furniture niche and, therefore no compartment inside the door could project over the front edge of the furniture niche.

v) Claim 42

Claim 42 includes the feature of the protruding edge of the door being in between the axis and the front edge of the body. Neither King nor Alexander shows a pivot axis of their respective doors.

In view of the foregoing, Appellants respectfully submit that the combination of King and Alexander does not teach or suggest the features of claims 15, 16, 21, 22 and 37-45 and, therefore, rejection under 35 USC §103(a) is inappropriate. As a result, Appellants respectfully request withdrawal of the rejection.

K) Claims 14-16, 21-28 and 31-45 are patentable under 35 U.S.C. §103(a) over “Faux Fridge Front” by Mike Guertin (“Guertin”) in view of King

The Office Action rejected claims 14-16, 21-28 and 31-45 under 35 U.S.C. §103(a) as being unpatentable over Guertin in view of King. Appellants respectfully traverse the rejection.

The Office Action asserts that it would have been obvious to use the refrigerator of King as the base refrigerator and then add the decorative panel onto that in the location as taught by Guertin. Applicants disagree with this assertion. The refrigerator of King has a door 10 that is rounded (at least) at the top and the bottom (as shown in Fig. 1). Applicants submit that due to the non-flat shape of the door 10 of King, it would not have been obvious

to add a decorative panel to door 10, especially the decorative panel shown in Guertin. The decorative panel shown in Guertin is attached to the refrigerator door by sliding it over the refrigerator door in a downward direction. Such an attachment method would not have been obvious, and may not even be possible, with a refrigerator door that is not flat.

Applicants further submit that combining the Office Action defined receiving area in the door of King with the refrigerator and niche of Guertin would not have been obvious because such a combination would result in a thicker refrigerator door. Guertin states that a drawback to its system is that the refrigerator sticks out slightly into the room (col. 3, page 53). Since Guertin sees the refrigerator sticking out into the room as a drawback, it would not have been obvious to make the refrigerator stick out even more by adding a thicker door.

i) Claims 23-25, 27, 28, 31, 32, 34-41 and 43-45

Independent claims 27 and 37 include the feature of the receiving area of the door being outside of the body inside area when the door is in the closed position. Such doors are necessarily thicker than conventional refrigerator doors. Adding such a door to Guertin would make the decorative panel stick out farther into the room, which, as stated above, is considered a drawback by Guertin. As a result, Applicants submit that it would not have been obvious to add such a door to the refrigerator of Guertin.

A stated purpose of the receiving area in the door is to provide additional refrigerated space to built-in refrigerators that often have a shallower depth than traditional free standing refrigerators. The refrigerator of Guertin is a traditional free standing refrigerator. As a result, there would have been no motivation to add a door having the claimed receiving area to the refrigerator of Alexander. The door 10 of the refrigerator of King is configured the way it is to provide a freezer compartment in door 10, with access through second door 31. The refrigerator of Guertin has a separate freezer having its own door and, as a result, would have no need for the door configuration of King.

ii) Claim 15

Claim 15 includes the feature of the body of the refrigerating unit having its front edge behind the front edge of the furniture niche. It is unclear from the photos and text of Guertin exactly where the front edge of the body of the refrigerator is located. Applicants submit that Guertin does not show a front edge of the body of the refrigerator being behind a front edge of the niche. Further, there is nothing in Guertin that suggests that the front edge of the body of the refrigerator is behind the front edge of the niche.

iii) Claim 16

Claim 16 includes the feature of the front edge of the body of the refrigerating unit being flush with the front edge of the furniture niche. It is unclear from the photos and text of Guertin exactly where the front edge of the body of the refrigerator is located. Applicants submit that Guertin does not show a front edge of the body of the refrigerator being flush with a front edge of the niche. Further, there is nothing in Guertin that suggests that the front edge of the body of the refrigerator is flush with the front edge of the niche.

iv) Claims 21 and 22

Claim 21 includes the feature of a decorative end portion being disposed on an outer side of the door which ends flush with the front of the furniture niche. It is unclear from the photos and text of Guertin exactly where the front edge of the body of the refrigerator is located. Applicants submit that Guertin does not show a front edge of the body of the refrigerator being flush with a front edge of the niche. Further, there is nothing in Guertin that suggests that the front edge of the body of the refrigerator is flush with the front edge of the niche. As a result, even if Guertin disclosed decorative end portions (and Applicants submit that it does not) there is nothing in Guertin that suggests such decorative end portions end flush with the front of the niche.

Claim 22 depends from claim 21.

v) Claim 26

Claim 26 includes the feature of a plurality of doors of different depth which can be mounted on the body. Neither King nor Guertin teaches or suggests a plurality of doors of different depth which can be mounted on the body.

vi) Claims 33 and 42

Claims 33 and 42 include the feature of the protruding edge of the door being in between the axis and the front edge of the body. Neither King nor Guertin teaches or suggests a location of the axis. Further, neither King nor Guertin teaches or suggests the protruding edge of the door being between the axis and the front edge of the body.

In view of the foregoing, Appellants respectfully submit that the combination of Guertin and King does not teach or suggest the features of claims 14-16, 21-28 and 31-45 and, therefore, rejection under 35 USC §103(a) is inappropriate. As a result, Appellants respectfully request withdrawal of the rejection.

(8) CONCLUSION

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's rejections.

Respectfully submitted,

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CLAIMS APPENDIX

1-13. (Canceled)

14. (Rejected) A refrigerating unit for installing in a furniture niche, comprising a body and a door that enclose a thermally insulated inside compartment, the door being pivotally mounted to the body for pivotal movement about an axis between an open and a closed position, the door projecting beyond a front edge of the furniture niche when the refrigerating unit is installed in the furniture niche.

15. (Rejected) The combination according to claim 37, wherein the body of the refrigerating unit remains with its front edge behind the front edge of the furniture niche.

16. (Rejected) The combination according to claim 37, wherein the front edge of the body of the refrigerating unit is flush with the front edge of the furniture niche.

17-20. (Cancelled)

21. (Rejected) The combination according to claim 37, wherein the door includes an outer side facing away from the body inside area, a decorative end portion being disposed on the outer side which ends flush with the front of the furniture niche.

22. (Rejected) The refrigerating unit according to claim 21, wherein the outer side is formed by a stainless steel outer wall.

23. (Rejected) The refrigerating unit according to claim 27, wherein the door comprises a door panel including a door outer cladding of a heat insulating layer and a door inner cladding that projects from the door panel to the body, the pivot axis of the door extending through the door panel.

24. (Rejected) The refrigerating unit according to claim 27, comprising a decorative panel which covers the door and can move therewith, wherein the decorative panel is rigidly mounted on the door, the decorative panel being removable from the door.

25. (Rejected) The refrigerating unit according to claim 24, wherein a piece of the decorative panel covers a side flank of the door.

26. (Rejected) The refrigerating unit according to claim 27, comprising a plurality of doors of different depth which can be mounted on the body.

27. (Rejected) A refrigerating unit for installing in a furniture niche, the refrigerating unit comprising:

a body having a front edge and a body inside area, the body inside area being defined on one side by the front edge of the body; and

a door having a protruding edge that protrudes toward the front edge of the body, the door being pivotally mounted to the body for pivotal movement about an axis between an open and a closed position, the door and the body enclosing a thermally insulated inside compartment when the door is in the closed position and the protruding edge of the door contacts the front edge of the body, and the door including a receiving area,

wherein the receiving area is outside of the body inside area when the door is in the closed position, and

the door is adapted for projecting beyond a front edge of the furniture niche when the door is in the closed position and the refrigerating unit is installed in the furniture niche.

28. (Rejected) The refrigerating unit according to claim 27, wherein the door is adapted for projecting beyond a front face of a cabinet door adjacent to the refrigerating unit in the furniture niche when the door is in the closed position.

29-30. (Cancelled)

31. (Rejected) The refrigerating unit according to claim 27, wherein the receiving area is formed by a recess on an inner side of the door.

32. (Rejected) The refrigerating unit according to claim 31, wherein the recess on the inner side of the door is formed by a cavity-like recess which extends at least substantially over the height and width of the inner side of the door.

33. (Rejected) The refrigerating unit according to claim 27, wherein the protruding edge of the door is in between the axis and the front edge of the body.

34. (Rejected) The refrigerating unit according to claim 27, wherein the receiving area is defined on one side by the protruding edge of the door.

35. (Rejected) The refrigerating unit according to claim 27, wherein the receiving area extends only to the protruding edge of the door.

36. (Rejected) The refrigerating unit according to claim 27, wherein the volume of the insulated inside compartment equals the sum of the volume of the body inside area and the volume of the receiving area.

37. (Rejected) A refrigerating unit and furniture niche combination, comprising:
a furniture niche; and
a refrigerating unit installed in the furniture niche, the refrigerating unit having

a body having a front edge and a body inside area, the body inside area being defined on one side by the front edge of the body; and

a door having a protruding edge that protrudes toward the front edge of the body, the door being pivotally mounted to the body for pivotal movement about an axis between an open position and a closed position, the door and the body enclosing a thermally insulated inside compartment when the door is in the closed position and the protruding edge of the door contacts the front edge of the body, and the door including a receiving area,

wherein the receiving area is outside of the body inside area when the door is in the closed position, and

the door projects beyond a front edge of the furniture niche when the door is in the closed position and the refrigerating unit is installed in the furniture niche.

38. (Rejected) The combination according to claim 37, wherein the inside compartment projects over the front edge of the furniture niche when the door is in the closed position.

39. (Rejected) The combination according to claim 37, wherein the door is adapted for projecting beyond a front face of a cabinet door adjacent to the refrigerating unit in the furniture niche when the door is in the closed position.

40. (Rejected) The combination according to claim 37, wherein the receiving area is formed by a recess on an inner side of the door.

41. (Rejected) The combination according to claim 40, wherein the recess on the inner side of the door is formed by a cavity-like recess which extends at least substantially over the height and width of the inner side of the door.

42. (Rejected) The combination according to claim 37, wherein the protruding edge of the door is in between the axis and the front edge of the body.

43. (Rejected) The combination according to claim 37, wherein the receiving area is defined on one side by the protruding edge of the door.

44. (Rejected) The combination according to claim 37, wherein the receiving area extends only to the protruding edge of the door.

45. (Rejected) The combination according to claim 37, wherein the volume of the insulated inside compartment equals the sum of the volume of the body inside area and the volume of the receiving area.

EVIDENCE APPENDIX

None

RELATED APPEALS APPENDIX

None